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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,368	01/27/2004	Henry Allen Hill	114096.121 US2 (ZI-47)	1581

23483 7590 05/03/2007
WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

EXAMINER

ROBERTS, MICHAEL P

ART UNIT	PAPER NUMBER
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2873

NOTIFICATION DATE	DELIVERY MODE
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05/03/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

teresa.carvalho@wilmerhale.com
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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/765,368	Applicant(s) HILL, HENRY ALLEN	
	Examiner Michael P. Roberts	Art Unit 2873	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; ~~as set forth in (b) above, if checked.~~ Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 26, 27 and 53.

Claim(s) rejected: 25, 28, 38, 49, 50-52, 54.

Claim(s) withdrawn from consideration: _____

(Claims not amended)
RM 4/30/07

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet (RM 4/30/07)
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

Scott J. Sugarman
Scott J. Sugarman
Primary Examiner

Michael Roberts

Muhl (R)

Continuation of 13. Other: Although the claims do not require a new search, the final rejection still stands for the reasons stated in the following paragraph.

Applicant's arguments with respect to claims 25 (and therefore claims 28, 49, 50, 51, and 52 which depend therefrom) and 38 (and therefore claim 54 which is dependent therefrom) filed 4/13/2007 have been fully considered but they are not persuasive. Applicant argues that Alfano '248 does not teach or suggest, "... a beam conditioner which during operation introduces a sequence of different shifts in a selected parameter of each of the first and second beams, said selected parameter selected from a group consisting of phase and frequency." Specifically, applicant argues that there is no basis in Alfano '248 for concluding that he changes the frequency of each of the first and second pulse beams. However, the examiner disagrees since Alfano '248 discloses in col. 6, line 4 -col. 7, line 4 that each of the first and second beams experience a shift in frequency. Specifically, beam 15 associated with frequency F1 experiences pulse frequency modulation via the Kerr shutter which operates to effect the "repetition rate" of the pulses incident thereon - see col. 6, lines 23-26 - and beam 17 associated with frequency F2 gets "frequency shifted" as discussed in col. 6, line 65-col. 7, line 4. Thus, each of the first and second beams experiences a shift in a frequency parameter.

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10765368	1/27/2004	HILL, HENRY ALLEN	114096.121 US2 (ZI-47)

EXAMINER

Michael P. Roberts

WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

ART UNIT	PAPER
2873	20070424

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents


Attached is an advisory action in response to the Amendments and Remarks filed 4/13/2007.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Roberts whose telephone number is (571) 270-1288. The examiner can normally be reached on Monday-Friday 8am-4/5pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Roberts
Examiner
Art Unit 2873
April 24, 2007


Scott J. Sugarman
Primary Examiner